

STATE OF WISCONSIN  
Department of Industry, Labor and Human Relations

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In the Matter of the Petroleum  
Environmental Cleanup Fund Act (PECFA)  
Application of:

Waupaca County Highway Commission  
Iola Garage Site  
160 S. Main St., Iola, Wisconsin,

Petitioner

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This is an appeal of a decision of the DILHR Division of Safety and Buildings which denied part of a claim for reimbursement under §101.143, Stats., the Petroleum Environmental Cleanup Fund Act (PECFA).

The petitioner submitted a claim for the reimbursement of \$48,474.70 under §101.143, Wis. Stats. The Division of Safety and Buildings approved a payment of \$34,430.74. The petitioner's request for hearing is limited to the denial of a claim for \$800.00 which is attributed to testing for polyaromatic hydrocarbons (PAH), also described as naphthalene.

The claim was initially denied because the expenses were not within the scope of the PECFA program. Because the petitioner has now documented that the testing was for a purpose within the scope of the PECFA program, the initial decision is reversed and the \$800.00 claim is allowed.

FINDINGS OF FACT

1. If it finds that all applicable requirements have been met, DILHR is required to issue an award to reimburse a claimant for eligible costs incurred because of a petroleum products discharge from a petroleum product storage system. §101.143(4)(a)1, Stats.

2. Testing for polyaromatic hydrocarbons or naphthalene is not always associated with testing for a petroleum products discharge. Such tests may be ordered by the DNR to test for the existence of other types of hazardous materials.

3. In this case, the petitioner was directed by Mr. Tom Sturm of the DNR to test for polyaromatic hydrocarbons specifically because the site appeared to evidence a very old diesel fuel spill and the detection of polyaromatic hydrocarbons would be a further indication of such contamination.

4. Under these circumstances, the testing for polyaromatic hydrocarbons was for the investigation and assessment of contamination caused by a petroleum product storage system under §101.143 (4) (b) 3, Stats.

#### CONCLUSIONS OF LAW

1. The claim for \$800.00 reimbursement for testing for polyaromatic hydrocarbons (naphthalene) should be paid.

#### ORDER

For these reasons, the decision of the Division of Safety and Buildings is modified to allow the claim for the cost of testing for polyaromatic hydrocarbons and it is ordered that the petitioner shall receive a further PECFA reimbursement in the amount of \$800.00.

Dated this 10th day of November, 1992.

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